

Senate Bill 445

By: Senators Seabaugh of the 28th, Goggans of the 7th, Williams of the 19th, Reed of the 35th and Powell of the 23rd

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 1 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding administrative procedure, so as to provide an alternate method for a General Assembly objection to administrative rules; to provide that the effectiveness of a challenged agency rule shall be stayed until the General Assembly has the opportunity to take action on such rule at the next legislative session; to provide for related matters; to change certain exemptions from legislative override; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding administrative procedure, is amended by revising subsections (f), (g), and (i) of Code Section 50-13-4, relating to procedural requirements regarding action to contest agency rules, as follows:

"(f)(1) In the event a standing committee to which a notice is assigned as provided in subsection (e) of this Code section files an objection to a proposed rule prior to its adoption and the agency adopts the proposed rule over the objection, the rule may be considered by the branch of the General Assembly whose committee objected to its adoption by the introduction of a resolution for the purpose of overriding the rule at any time within the first 30 days of the next regular session of the General Assembly. It shall be the duty of any agency which adopts a proposed rule over such objection so to notify the presiding officers of the Senate and the House of Representatives, the chairmen of the Senate and House committees to which the rule was referred, and the legislative counsel within ten days after the adoption of the rule. In the event the resolution is adopted by such branch of the General Assembly, it shall be immediately transmitted to the other branch of the General Assembly. It shall be the duty of the presiding officer of the other branch of the General Assembly to have such branch, within five days after the receipt

1 of the resolution, to consider the resolution for the purpose of overriding the rule. In the
2 event the resolution is adopted by two-thirds of the votes of each branch of the General
3 Assembly, the rule shall be void on the day after the adoption of the resolution by the
4 second branch of the General Assembly. In the event the resolution is ratified by less
5 than two-thirds of the votes of either branch, the resolution shall be submitted to the
6 Governor for his or her approval or veto. In the event of his or her veto, the rule shall
7 remain in effect. In the event of his or her approval, the rule shall be void on the day after
8 the date of his or her approval.

9 (2) In the event each standing committee to which a notice is assigned as provided in
10 subsection (e) of this Code section files an objection to a proposed rule prior to its
11 adoption by a two-thirds' vote of the members of the committee who were voting
12 members on the tenth day of the current session, after having given public notice of the
13 time, place, and purpose of such vote at least 48 hours in advance, as well as the
14 opportunity for members of the public including the promulgating agency, to have a
15 reasonable time to comment on the proposed committee action at the hearing, the
16 effectiveness of such rule shall be stayed until the next legislative session at which time
17 the rule may be considered by the General Assembly by the introduction of a resolution
18 in either branch of the General Assembly for the purpose of overriding the rule at any
19 time within the first 30 days of the next regular session of the General Assembly. In the
20 event the resolution is adopted by the branch of the General Assembly in which it was
21 introduced, it shall be immediately transmitted to the other branch of the General
22 Assembly. It shall be the duty of the presiding officer of the other branch of the General
23 Assembly to have such branch, within five days after the receipt of the resolution, to
24 consider the resolution for the purpose of overriding the rule. In the event the resolution
25 is adopted by two-thirds of the votes of each branch of the General Assembly, the rule
26 shall be void on the day after the adoption of the resolution by the second branch of the
27 General Assembly. In the event the resolution is ratified by less than two-thirds of the
28 votes of either branch, the resolution shall be submitted to the Governor for his or her
29 approval or veto. In the event of his or her veto, the rule shall remain in effect. In the
30 event of his or her approval, the rule shall be void on the day after the date of his or her
31 approval. If after the thirtieth legislative day of the legislative session of which the
32 challenged rule was to be considered the General Assembly has not considered an
33 override of the challenged rule pursuant to this subsection, the rule shall then immediately
34 take effect.

35 (g)(1) Subsection (f) of this Code section shall not apply to the Environmental Protection
36 Division of the Department of Natural Resources as to any rule for which, as part of the
37 notice required by paragraph (1) of subsection (a) of this Code section, the director of the

1 division certifies that such rule is required for compliance with federal statutes or
2 regulations or to exercise certain powers delegated by the federal government to the state
3 to implement federal statutes or regulations, but paragraph (2) of this subsection shall
4 apply to the Environmental Protection Division of the Department of Natural Resources
5 as to any rule so certified. As part of such certification, the director shall cite the specific
6 section or sections of federal statutes or regulations which the proposed rule is intended
7 to comply with or implement. General references to the name or title of a federal statute
8 or regulation shall not suffice for the purposes of this paragraph. Any proposed rule or
9 rules that are subject to this paragraph shall be noticed separately from any proposed rule
10 or rules that are not subject to this paragraph.

11 (2) In the event the ~~chairman~~ chairperson of any standing committee to which a proposed
12 rule ~~relative to the Environmental Protection Division of the Department of Natural~~
13 ~~Resources~~ certified by the director of the division pursuant to paragraph (1) of this
14 subsection is assigned notifies the agency director that the committee objects to the
15 adoption of the rule or has questions concerning the purpose, nature, or necessity of ~~the~~
16 such rule, it shall be the duty of the agency director to consult with the committee prior
17 to the adoption of the rule."

18 "(i) This Code section shall not apply to any comprehensive state-wide water management
19 plan or revision thereof prepared by the Environmental Protection Division of the
20 Department of Natural Resources and proposed, adopted, amended, or repealed pursuant
21 to Article 8 of Chapter 5 of Title 12; provided, however, that this Code section shall apply
22 to any rules or regulations implementing such a plan."

23 SECTION 2.

24 This Act shall become effective upon its approval by the Governor or upon its becoming law
25 without such approval.

26 SECTION 3.

27 All laws and parts of laws in conflict with this Act are repealed.